

AD-13
Ct No.09
24.05.2024
TN

WPA No. 7164 of 2024

IA No: CAN 1 of 2024

Rabiul Islam and another

Vs.

Aditya Birla Housing Finance Limited others

Mr. S. R. Saha,
Mr. S. A. Joynal

.... for the petitioners

Mr. Avishek Guha,
Ms. Sonal Agarwal,
Mr. Ankush Majumder

....for the respondent no. 1

Ms. Kalpita Paul

....for the State

- 1.** On consent of parties, the application and the writ petition are taken up together for hearing.
- 2.** The writ petitioners have challenged an action of the Bank under Section 13(4) of the SARFAESI Act, 2002 for all practical purposes.
- 3.** Since an equally efficacious alternative remedy is available to the petitioners under Section 17 of the SARFAESI Act, 2002, which has already been taken recourse of by filing an application before the concerned Tribunal, there is no reason as to why the writ petition should be entertained on the self-same cause of action.
- 4.** Accordingly, CAN 1 of 2024 along with WPA No. 7164 of 2024 are disposed of with liberty to the petitioners to urge the self-same points as taken in the present writ

petition in the pending application under Section 17 of the SARFAESI Act, 2002 before the concerned Tribunal.

- 5.** Leave is granted to the petitioners to file interlocutory application for interim order before the Tribunal. If so filed, the Tribunal shall make endeavour to dispose of the said application as expeditiously as possible and fix a short date for taking up the ad-interim prayer made in connection therewith upon notice to the respondent(s).
- 6.** There will be no order as to costs.
- 7.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)